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Bihar Electricity Regulatory Commission

NOTIFICATION

The 9th October 2017

No. BERC SMP No-36/2016-05— In exercise of the powers conferred on it by sub-sections (r) and (s) of Section 181 read with sub-sections (5) to (7) section 42 of the Electricity Act, 2003 (36 of 2003) and all other powers enabling it in this behalf, the Bihar Electricity Regulatory Commission hereby makes the following Regulations related to Consumer Grievance Redressal Forum, Electricity Ombudsman and Consumer Advocacy. These Regulations shall supersede the earlier Regulations on the subject notified by BERC vide notification No. 192 dated 20.05.2006 and published in Bihar Gazette on 22nd May, 2006.

1. SHORT TITLE, COMMENCEMENT, DEFINITIONS AND INTERPRETATIONS

Short Title and Commencement

- 1.1 These Regulations may be called the Bihar Electricity Regulatory Commission (Consumer Grievance Redressal Forum, Electricity Ombudsman and Consumer Advocacy) Regulations, 2017.
- 1.2 These Regulations shall be applicable to all distribution licensees in the "State of Bihar" in their respective licensed areas.
- 1.3 These Regulations shall come into force from the date of their notification in the Official Gazette.
- 1.4 These Regulations shall be construed harmoniously with the standards of performance of the distribution licensees and the

Electricity Supply Code specified by the Commission under the provisions of Clauses (x) and (za) of sub-section (2) of Section 181 of the Act. In case of any inconsistency with these Regulations, the standards of performance of the distribution licensees and the Electricity Supply Code shall prevail.

Definitions

- 1.5 In these regulations, unless the context otherwise requires,
- (a) 'Act' means the Electricity Act, 2003 (36 of 2003) and its amendments;
 - (b) 'Area of supply' means the area within which a distribution licensee is authorized by his/her/their licence to supply electricity;
 - (c) 'Chairperson' and 'Member' means the Chairperson and Member of the Forum;
 - (d) 'Commission' means the Bihar Electricity Regulatory Commission;
 - (e) 'Complainant' means-
 - (i) a consumer of electricity supplied by the licensee including applicants for new connections;
 - (ii) any voluntary consumer association registered under the Companies Act, 1956 (1 of 1956) or under any other law for the time being in force;
 - (iii) The Central Government or the State Government – who or which makes the complaint;
 - (iv) one or more consumers, where there are numerous consumers having the same interest;
 - (v) in case of death of a consumer, his legal heirs or representatives.
 - (f) 'Complaint' means any grievance made by a complainant in writing on: -
 - (i) defect or deficiency in electricity supply or service provided by the licensee;
 - (ii) unfair or restrictive trade practices of licensee in providing electricity services;
 - (iii) charging of a price in excess of the price fixed by the Commission for supply of electricity and allied services;
 - (iv) errors in billing;
 - (v) erroneous disconnection of supply;
 - (vi) electricity services which are unsafe or hazardous to public life in contravention of the provisions of any law or rule in force; or
 - (vii) any other grievance connected with the supply of electricity by the licensee to the consumers except grievances arising under Sections 126, 135 to 139, 143, 152 and 161 of the Act. :
 - (g) 'Consumer' means consumer as defined in Section 2(15) of the Electricity Act, 2003;]
 - (h) Defect or 'Deficiency' means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance, which is required to be maintained under any law for the time being in force or has been undertaken to be performed by distribution licensee in

pursuance of a contract agreement or otherwise in relation to electricity service or performance standard, violations of Electricity Supply Code, contraventions of Act, rules or regulations made there under with regard to consumer interest;

- (i) 'Distribution system' means the system of wires and associated facilities between the delivery points on the transmission lines or the generating station terminal in the absence of transmission lines and the point of connection to the installation of the consumers;
 - (j) 'Electricity Ombudsman' means an authority to be appointed or designated by the Commission, under sub-section (6) of Section 42 of the Act and these Regulations.
 - (k) 'Electricity Service' means in particular and without prejudice to the generality of the term, electricity supply, metering, billing, maintenance of supply, maintenance of distribution system and all other attendant sub service, etc;
 - (l) 'Forum' means 'Forum for redressal of grievances of consumers' to be constituted by the distribution licensee in terms of sub-section (5) of Section 42 of the Act and these Regulations.
 - (m) 'Grievance' means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which has been undertaken to be performed by a distribution licensee in pursuance of a licence, contract, agreement or under the Electricity Supply Code or in relation to standards of performance of distribution licensees as specified by the Commission and includes billing disputes of any nature and matters related to safety of the distribution system having potential of endangering of life or property.
 - (n) 'Licensee' means a distribution licensee authorized to operate and maintain a distribution system for supplying electricity to the consumers in his area of supply and shall include the deemed distribution licensee under the provisions to Section 42 of the Act.
 - (o) 'Representation' means the representation made to the Ombudsman by the complainant in person or on behalf of such a complainant who is aggrieved by the outcome of the Forum's proceedings in respect of his/her grievance (including not issuing the order within the specified time limit, dissatisfaction with the order issued, partial or full dismissal of the grievance)
- 1.6 Words and expressions used and not specifically defined in these Regulations but defined in the Electricity Act, 2003 shall have the meaning assigned to them in the Act. The other words and expressions used herein but not defined in these Regulations or in the Act but defined under any law passed by the Parliament applicable to electricity industry in the State shall have the meaning assigned to them in such law.

2. CONSUMER GRIEVANCE REDRESSAL FORUM

Constitution of the Forum

2.1 In terms of subsection (5) of Section 42 of the Act, every distribution licensee shall, within six months, from the Appointed Date or date of grant of distribution license or date of formation of distribution licensee pursuant to a transfer scheme for re-organisation of a state electricity board, whichever is applicable, establish one or more Forum(s) to be designated as Electricity Consumer Grievance Redressal Forum for redressal of grievances of Complainants in accordance with these regulations.

2.2 The number of Forums, their locations and areas of jurisdiction may be decided by the licensee. However, the licensee should make an endeavor to establish at least one Forum in each Supply Circle.

2.3 The Forum shall have sittings at the headquarters and/or at any other place in the licensee's area as may be decided by the Chairperson depending upon the number of grievances and area of operation.

2.4 The Forum shall consist of three Members including Chairperson.

- (a)(i) The First Member shall be the Chairperson of the forum. The First Member (Chairperson) should be a retired Judicial Officer not below the rank of Additional District and Session Judge or a retired officer of Bihar Administrative Service not below the rank of Additional District Magistrate/Additional Collector or equivalent post with minimum 20 year experience. Preference shall be given to the officer having experience of Judicial/Quasi Judicial work and has shown capacity in dealing with problems relating to Electricity Regulatory matters and familiar with the consumers affairs service.
- (ii) The Second Member shall be appointed by the licensee from amongst the serving officers in grade not below the rank of Executive Engineer or equivalent having total experience of 8 years out of which at least three years experience in Accounting and/or Revenue and/or Commercial matters.
- (iii) The Third Member shall be Independent Member: The person shall be a representative of a registered society/NGO/consumer organization having one of its main objectives as consumer protection with at least 5 years of standing or alternatively the representing member should have five years of experience in consumer-related matters.

Provided that, a person applying for the post of Independent Member of the Forum shall not have been in the employment in any capacity under, or agency of, the Distribution Licensee for a minimum period of three (3) years prior to being appointed Independent Member of the Forum.

- (iv) The Chairperson (First Member) and the Independent Member (Third Member) shall be selected through proper advertisement in Press and on the Website & Notice Board of the Commission and the licensee.
- (v) The Chairperson (First Member) of the Forum shall be nominated by the Commission and appointed by the licensee and the Independent Member (Third Member) shall be appointed by the Commission. The process of the appointment of the Chairperson (First Member) and the Independent Member (Third Member) of the Forum shall be initiated by the Commission.

2.5 The Distribution Licensee shall propose to the Commission a panel of names of at least three officers for each post of the Second Member of the Forum. Details of qualification, experience and background relating to ability, integrity and standing shall be submitted in respect of each officer. The Commission shall consider the names proposed by the licensee and after its approval, the licensee shall appoint the Second Member.

2.6 Every member of the Forum shall hold office for a fixed term of three years, from the date of appointment or till he/she attains the age of 65 years or date of superannuation in case of serving officer of the licensee appointed as Second Member, whichever is earlier. The tenure of a member may be extended by the licensee for a further period of two years or till he/she attains the age of 65 years whichever is earlier with prior approval of the Commission. The Members including Chairperson shall not be eligible for re-appointment. The Commission in case of appointment of the Chairperson (First Member) and Independent Member (Third Member) and the Licensee in case of Second Member shall initiate selection process three months before the date of expiry of tenure of present incumbents. In case of unavoidable delay in appointment of Members and Chairperson after expiry of the term of the existing Forum, the existing Forum after completion of its term, may continue to function for a period of maximum three months, or till the new Members and the Chairperson join their duties, whichever is earlier subject to the prior approval of the Commission. The Licensee shall ensure that the working of Forum is not disrupted on account of non-filling up of the posts and the new Forum is made functional within the extended period in any case.

Provided that when the Chairperson is unable to function due to ailment or any other reason the Second Member shall discharge the functions of the Chairperson in his absence.

2.7 The licensee shall ensure that no post of a member in the Forum remains vacant for a period exceeding thirty days.

2.8 The minimum age-limit for application for the post of the Chairperson and Independent Member shall be 55 years.

2.9 The members of the Forum shall be persons of experience, ability, integrity and standing.

2.10 All the Members of the Forum shall be whole time members. They shall not undertake any other part time or honorary work.

2.11 No person shall be appointed and/or be entitled to continue as a member if he/she stands disqualified on account of his/ her:

- a) Having been adjudged an insolvent;
- b) Having been convicted of an offence which, in the opinion of the licensee, involves moral turpitude;
- c) Having become physically or mentally incapable of acting as such a member;
- d) Having acquired such financial or other interest as is likely to affect prejudicially his/ her functions as a member;
- e) Having so abused his/ her position as to render his/her continuance in office prejudicial to public interest; or
- f) Having been guilty of proved misbehavior.
- g) Having become Member of any Political Party.

2.12 An existing member shall be liable to be removed by the licensee from his office forthwith on account of any of the aforesaid disqualifications arising or being discovered.

Provided that no member shall be removed from his/her office by the licensee on any ground specified in the aforesaid sub-clauses unless the

licensee has, on an inquiry concluded that the person ought, on such ground or grounds; be removed.

2.13 The Member including Chairperson may relinquish his/her office by giving prior notice in writing not less than three months to the appointing authority. Similarly, if the Chairperson/Member of the Forum is removed by the licensee, Licensee shall give prior notice in writing not less than three months to the Chairperson/Member of the Forum.

Jurisdiction of the Forum

2.14 Subject to the other provisions of these Regulations, the Forum shall have jurisdiction to entertain the complaints within the entire area of the distribution licensee. If there is more than one Forum in the same licensee area, then the area of jurisdiction may be decided by the licensee in accordance with Regulation 2(2).

Remuneration and other expenses

2.15 The sitting fees, honorarium and/or other allowances (collectively "Remuneration") payable to the Chairperson shall be decided by the licensee with the approval of the Commission. The remuneration for the Independent Member shall be decided by the Commission.

2.16 The terms and conditions of service of a member of the Forum who is in the employment of the licensee shall be governed by the terms and conditions of his/her employment with such a licensee. Thus, the Second Member (Technical/ Finance) Member shall continue to draw the same salary as he/ she is entitled to as a regular employee of the licensee.

2.17 The sitting fees, honorarium and/or other allowance (collectively "Remuneration") payable to members of the Forum shall be borne by the licensee.

2.18 The office space, secretarial support, and other facilities required for smooth functioning of the Forum shall be provided by the licensee as per guidelines of the Commission.

2.19 The licensee shall meet all the costs and expenses of the Forum including the cost of establishment and staff required to assist the Forum in the discharge of its functions under these Regulations. The expenditure on the Forum(s) will be considered in the revenue requirement of the licensee and will be allowed as a pass-through expense.

Procedural matters

2.20 The quorum for any meeting or proceedings of the Forum shall normally be two, and each member shall have one vote. However, In case of non appointment/vacancy of members, the quorum of meeting shall be one. In case of equality of votes on any issue, the Chairperson, or in his absence the person presiding, shall have the second or casting vote.

2.21 The Chairperson shall have the general powers of superintendence and control over the Forum.

2.22 All decisions of the Forum shall, as far as possible, be unanimous or on the basis of decision taken by the majority of the members present.

2.23 No act or proceeding of the Forum shall be deemed to be invalid by reason of some defect in the constitution of the Forum or by reason of the existence of a vacancy among its members.

2.24 The Forum shall comply with such general directions as the Commission may issue from time to time in the interest of efficient and effective redressal of grievances in a timely and expeditious manner.

2.25 The licensee shall from time to time give due publicity about the Forum and its charter through advertisement in widely circulated local newspapers and in such other manner as it considers appropriate and as the

Commission may direct, from time to time. The names of the members of the Forum, their addresses and phone numbers shall be displayed prominently at all the offices of the licensee which has interface with consumers and shall also be duly published on the electricity bills of the consumers.

Preservance of Existing Grievance-Handling Mechanisms

2.26 For expeditious resolution of the complaints of a Complainant, any mechanism existing within the licensee, other than the Forum established under these Regulations, may be retained. The creation of the Forum shall not debar a Complainant from settling his/ her complaints through such internal mechanisms.

Provided that the Complainant shall have the right to approach the Forum directly in respect of matters falling under the jurisdiction of the Forum.

Licensee's obligations

2.27 The licensee shall give wide publicity of the existence of the Forum. The names of the Forum Members, its officials, their address, telephone and facsimile numbers, email address, etc. of the Forum shall be displayed at all the offices of the licensee and shall also be duly publicized, including in the electricity bills raised on the consumers.

2.28 The electricity bills issued by the licensee to the consumers shall contain the address of the concerned Consumer Grievance Redressal Forum and the statement '**Complainants whose grievance is not redressed by the official of the licensee may approach the Consumer Grievance Redressal Forum**', shall be printed on the bills.

2.29 The licensee shall make available copies of the procedure for lodging complaints to the complainants free of cost. These forms shall be displayed at all the offices of the licensee and shall also be duly publicized.

Prioritization of Grievances

2.30 As far as is possible and practical, the grievances shall be prioritized for redressal based on the following priority order:

- a) Non-Supply
- b) Connection
- c) Disconnection of supply
- d) Meter-related issues
- e) Billing-related issues
- f) Other issues

Provided that it should be ensured that all grievances are disposed of within the time limit specified under these Regulations.

Process for submission of grievance

2.31 The Complainant can submit his/ her grievance to the appropriate Forum under whose jurisdiction his/ her connection exists or a connection has been applied for. The Complainant can also submit his/ her grievance at the nearest complaint-receiving centre, already established by the licensee. The grievance may be submitted either in person or through post, email or fax.

2.32 All complaint-receiving centre shall accept the grievances from Complainants falling within the jurisdiction of the Forum. The grievance so received along with other supporting documents shall be forwarded to the relevant Forum within the next working day.

2.33 The grievance shall be submitted as per the format specified in ANNEXURE I of APPENDIX I:

Provided that the Forum shall take cognizance of any grievance submitted based on the merit of the case and will not reject any grievance for the sole reason of it not having been submitted in the format specified.

2.34 The Complainant shall be issued acknowledgement of the receipt of grievance by the complaint receiving centre. In case of submission of the grievance in person, the acknowledgment shall be issued immediately. In case of receipt of grievance by post, email or fax, the acknowledgement shall be dispatched latest by the next working day. In case of issuance of acknowledgment by a complaint-receiving centre, the contact details of the relevant Forum shall also be issued along with the acknowledgement.

Limitations/ pre-conditions for submission of grievance

2.35 The Forum may reject the grievance at any stage under the following circumstances:

- a) In cases where proceedings in respect of the same matter and between the same Complainant and the Licensee are pending before any court, tribunal, arbitrator or any other authority, or a decree or award or a final order has already been passed by any such court, tribunal, arbitrator or authority;
- b) In cases which fall under Sections 126, 127, 135 to 139, 152, and 161 of the Act;
- c) In cases where the grievance has been submitted after two years from the date on which the cause of action has arisen; and
- d) In the case of grievances which are:
 - (i) frivolous, vexatious, malafide;
 - (ii) without any sufficient cause; or
 - (iii) where there is no prima facie loss or damage or inconvenience caused to the Complainant or the consumers who are represented by an association or group of consumers.

Provided that no grievance shall be rejected unless the Complainant has been given an opportunity of being heard.

Process

2.36 The Forum shall forward a copy of the grievance to the concerned officer of the licensee or the employee/ employees/department named in the grievance ("respondent party").

2.37 The respondent party shall furnish paragraph-wise comments to the Forum on the grievance within five days (grievance related to non-supply, connection or disconnection of supply) or 15 days (all other grievances) of the receipt of the grievance copy, failing which the Forum shall proceed on the basis of the material available on record.

2.38 The Forum may call for any record from the respondent party or from the Complainant as is relevant for examination and disposal of the grievance, and both the parties shall be under obligation to provide such information, document or record as the Forum may call for. Where a party fails to furnish such information, document or record and the Forum is satisfied that the party in possession of the record is withholding it deliberately, it may draw an adverse inference.

2.39 The Forum may also direct the Licensee to undertake an inspection or engage a third party to undertake such inspection with regard to the Grievance, as may be required for expeditious redressal of the grievance. The Forum can also engage a third party (other than the licensee) at the instance and request of the Complainant, to undertake inspection and obtain an independent report. The Forum shall record the reasons for the need for such third-party inspection, which should generally be resorted to rarely and keeping in view the special circumstances of a case. The expenses of such third-party inspection, except expenses of inspection at the request of the Complainant,

shall be borne by the licensee, and to the extent reasonable and justifiable, such expenses shall be allowed as pass through expense in the determination of tariff in accordance with the relevant Regulations of the Commission. In case inspection is taken up at the request of the Complainant, the expenses shall be deposited in advance by the complainant, which may or may not be refunded by the Forum depending on whether the grievance is found to be of substance or not.

2.40 The Forum may call the concerned officer of the Licensee for discussion in suitable cases, in order to seek redressal of the grievance filed before it. In case the matter is settled in discussion, it may be recorded as a decision and conveyed to the Complainant and the Licensee by order of the Forum.

2.41 In case the Forum comes to the conclusion that the Complainant and the concerned officer of the Licensee are required to be heard for redressal of the grievance, the Forum shall call the Complainant and the concerned officer with the details of the case and documents, if any, as may be necessary.

2.42 A Complainant, distribution licensee or any other person who is a party to any proceedings before the Forum may either appear in person or authorise any person other than an Advocate (within the meaning of the Advocates Act, 1961) to present his/ her case before the Forum and to do all or any of the acts for the purpose.

2.43 Where the Complainant or the Licensee or their representative fails to appear before the Forum on the date fixed for hearing on more than two occasions, the Forum may decide the grievance ex-parte.

2.44 No adjournment shall ordinarily be granted by the Forum unless sufficient cause is shown and the reasons for grant of adjournment have been recorded in writing by the Forum.

2.45 The Forum shall be guided by the principles of natural justice, and subject to the other provisions of these regulations, the Forum shall have powers to regulate its own procedure.

Issue of Order

2.46 On receipt of the comments from the Licensee or otherwise and after conducting or having such inquiry or local inspection conducted as the Forum may consider necessary, and after affording reasonable opportunity of being heard to the parties, the Forum shall take a decision by a majority of votes of the members of the Forum present and in the event of equality of votes, the chairperson, or in his absence the person presiding, shall have a second or casting vote.

2.47 If, after the completion of the proceedings, the Forum is satisfied after voting that any of the allegations contained in the grievance are correct, it shall issue an order to the Distribution Licensee directing it to do one or more of the following things in a time-bound manner, namely:

- a) Remove the cause of grievance in question;
- b) Return to the Complainant the undue charges paid by the Complainant along with the interest. The interest rate may be fixed as the rate paid by the State Bank of India for a fixed deposit of duration nearest to the period for which the undue charges were withheld by the licensee; and
- c) Any other order deemed appropriate in the facts and circumstances of the case.

2.48 The proceedings and decisions of the Forum shall be recorded and shall be supported by reasons. The order shall be a reasoned order and signed by the members conducting the proceedings. Where the members differ on any

point or points, the opinion of the majority shall be the Order of the Forum. The opinion of the minority shall however, be recorded and form part of the Order.

2.49 In case of grievances related to non-supply, connection or disconnection of supply, the Forum shall pass the order within 15 days of filing of the grievance and in case of other grievances, the order shall be passed within 45 days of filing of the grievance:

Provided also that in the event of grievance being disposed of after the maximum period specified above, the Forum should record in writing, the reasons for the same at the time of disposing the said grievance and inform the Ombudsman.

2.50 The order of the Forum shall be communicated to the Complainant and Licensee in writing within three days. A certified copy of every order passed by the Forum shall be delivered to the parties.

2.51 The Licensee shall comply with the order of the Forum within 21 days from the date of receipt of the order. In appropriate cases, considering the nature of the case, the Forum, upon the request of the Licensee, may extend the period for compliance of its order up to a maximum of three months. Non-compliance of the order of the Forum shall be treated as violation of the Regulations of the Commission and accordingly liable for action under Section 142 of the Act.

2.52 The concerned officer of the Licensee shall furnish a compliance report of the order of the Forum within seven days from the date of compliance, to the Forum and to the Complainant. The Forum shall keep a record of the compliance of its orders and review the same every month. In case of non compliance of its orders, the Forum shall take up the matter with the higher authorities of the licensee for compliance. If even after that the order is not complied with, the Forum shall inform the Commission regarding such non-compliance.

Reporting Requirements

2.53 The Forum shall submit a quarterly report on disposal of grievances to the Commission, licensee and Ombudsman. The report should be submitted within 15 days of the close of the quarter to which it relates.

2.54 The quarterly report should be submitted in accordance with the format as specified in ANNEXURE III of APPENDIX I.

2.55 The Forum shall also furnish a yearly report containing a general review of the activities of the Forum during the financial year to the Commission, licensee and Ombudsman. The report should be submitted within 45 days of the close of the financial year to which it relates.

Special provisions: Interim Order, Escalation mechanism

2.56 Upon request of the Complainant, the Forum may issue such interim orders pending final disposal of the grievance as it may consider necessary.

Provided that the Forum shall have the powers to pass such an interim order in any proceeding, hearing or matter before it, as it may consider appropriate if the Complainant satisfies the Forum that prima facie, the Distribution Licensee has threatened or is likely to remove or disconnect the electricity connection, and has or is likely to contravene any of the provisions of the Act or any rules and regulations made hereunder or any order of the Commission, provided that the Forum has jurisdiction on such matters.

Provided further that, except where it appears that the object of passing the interim order would be defeated by delay, no such interim order shall be passed unless the opposite party has been given an opportunity of being heard.

2.57 A Complainant may prefer a representation before the Ombudsman appointed/designated by the Commission under the following two circumstances:

- a) If the Complainant is aggrieved by the non-redressal of the grievance by the Forum within the period specified, and
- b) If the Complainant is aggrieved with the order passed by the Forum.

2.58 Such a representation may be made within a period of 30 days after grant of order by the Forum or expiration of 30 days after the time limit specified for issuance of the order, whichever is applicable.

2.59 The Forum may settle any grievance in terms of an agreement arrived between the parties at any stage of the proceedings before it and there shall be no right of representation before the Ombudsman against such an order.

2.60 The Commission shall have the general powers of superintendence over the Forum and the Forum shall duly comply with such directions as the Commissions may issue from time to time.

2.61 The Licensee shall have the General administrative and financial control over the Forum and in case of dispute between the Forum and the licensee in the matter of administrative & financial control, the matter shall be referred to the Commission for resolution and the decision of the Commission shall be final and binding on both the parties.

3. ELECTRICITY OMBUDSMAN

Qualification, terms of appointment and removal of Electricity Ombudsman

3.1. In accordance with sub-section(6) of Section 42 of the Act, the Commission may, from time to time, appoint or designate a person as the Ombudsman to discharge the functions in accordance with sub-section(7) of Section 42 of the Act.

3.2. The Commission may appoint or designate more than one Ombudsman for a licensee or a common Ombudsman or Ombudsmen for two or more licensees considering factors such as the number of representations received, disposal of representations within the specified time limit, ease of access for the consumer and the geographical area.

3.3. The Commission shall invite applications through public advertisement for the appointment of the Ombudsman. The Commission shall also form a Search Committee for recommending names for the appointment of the Ombudsman by the Commission.

3.4. The Ombudsman shall be a person of experience, ability, integrity and standing.

3.5. The following categories of persons shall be eligible to be appointed as Ombudsman:

- a) Retired District Judges
- b) Retired Secretaries to State Governments
- c) Any person who has held the position of a member or chairperson of any statutory quasi-judicial body at the state level for at least three years
- d) Any other person of equivalent level

3.6. The Ombudsman shall hold office for a fixed term of three years from the date of appointment or till he/she attains the age of 65 years whichever is earlier. The tenure may be extended for a further period not exceeding two years, or till he/she attains the age of 65 years, which is earlier.

3.7. The minimum age-limit for application for the post of Ombudsman shall be 60 years.

Disqualification and Removal of Ombudsman

3.8. No person shall be appointed and/or be entitled to continue as an Ombudsman if he/ she stands disqualified on account of his/her

- a) Having been adjudged an insolvent;
- b) Having been convicted of an offence which, in the opinion of the Commission, involves moral turpitude;
- c) Having become physically or mentally incapable of acting as an Ombudsman;
- d) Having acquired such financial or other interest as is likely to affect prejudicially his/ her functions as an Ombudsman;
- e) Having so abused his/ her position as to render his/ her continuance in office prejudicial to public interest; or
- f) Having been guilty of proven misbehavior
- g) Having become member of any political party.

3.9. An existing Ombudsman shall be removed by the Commission from his office forthwith on account on any of the aforesaid disqualifications arising or being discovered.

Provided that the Ombudsman shall not be removed from his/ her office on any ground specified in the aforesaid sub-clauses unless the Commission has, on an inquiry, concluded that the person ought, on such ground or grounds, be removed.

3.10. The Ombudsman may relinquish his/her office by giving prior notice in writing not less than three months to the Commission. Similarly, if the Ombudsman is removed by the Commission, the Commission shall give prior notice in writing not less than three months to the Ombudsman.

Office of the Electricity Ombudsman

3.11. The Ombudsman's office/offices shall be preferably located in the capital city of the state or any district headquarters as the case may be. However, the Ombudsman may hold hearings or proceedings at various places within the state in order to expedite the disposal of representations received before him/her.

3.12. The post of Ombudsman shall be a full-time post. He shall not undertake any other part time or honorary work.

Remuneration

3.13 The Electricity Ombudsman shall be paid a consolidated/salary and such other allowances as determined by the Commission, by order, from time to time.

3.14. The Commission shall provide the Ombudsman with a Secretariat. The staff strength of the said Secretariat and terms and conditions of appointment of the staff shall be determined by the Commission from time to time.

3.15. All expenses of the Ombudsman's office including that of the Secretariat shall be borne by the Commission.

3.16. The name, location, email address and telephone numbers of the Ombudsmen shall be widely publicised through newspapers, and displayed on the websites and the offices of the licensees and the Commission and intimated to consumers through electricity bills. They may also be publicised through radio and television.

Pre-conditions/ Limitations for entertaining representation

3.17. The representation may be entertained by the Ombudsman only if all of the following conditions are satisfied:

- a) It has been filed by the Complainant being the aggrieved consumer or the association representing the consumer's. For avoidance of doubt, a licensee is not allowed to file a representation before the Ombudsman against the order of the Forum
- b) The Complainant had, before making a representation to the Ombudsman, approached the Forum constituted under Section 42(5) of the Electricity Act, 2003 for redressal of his/ her grievance
- c) The representation by the Complainant, in respect of the same grievance, is not pending in any proceedings before any court, tribunal or arbitrator or any other authority; a decree or award or a final order has not been passed by any such court, tribunal, arbitrator or authority.
- d) The representation is not in respect of the same cause of action which was settled or dealt with on merits by the Ombudsman in any previous proceedings whether or not received from the same complainant or along with one or more complainants or one or more of the parties concerned with the cause of action.
- e) The Complainant is not satisfied with the redressal of his/ her grievance by the Forum or the Forum has rejected the grievance or has not passed the order within the time-limit specified.
- f) The Complainant has filed the representation before the Ombudsman within 30 days from the date of receipt of the decision of the Forum or date of expiry of the period within which the Forum was required to take the decision, whichever is earlier. Provided that the Ombudsman may entertain a representation after the expiry of the said period of thirty days if the Ombudsman is satisfied that there is sufficient cause for not filing it within that period.
- g) The Complainant who claims compensation from the Distribution Licensee has paid such fees as may be stipulated by the Commission from time to time.

3.18. Subject to the provisions of the Act and this Regulation, the Ombudsman's decision on whether the representation is fit and proper for being considered by it or not, shall be final.

3.19. The Ombudsman may reject the representation at any stage if it appears to him that the representation is:

- a) Frivolous, vexatious, mala-fide;
- b) Without any sufficient cause;
- c) There is no prima facie loss or damage or inconvenience caused to the Complainant;

Provided that the decision of the Ombudsman in this regard shall be final and binding on the Complainant and the Distribution Licensee.

Provided further that no representation shall be rejected in respect of sub-clauses (a), (b) and (c) unless the Complainant has been given an opportunity of being heard.

Format for submission of representation

3.20. The Complainant can submit his/ her representation as per the format specified in ANNEXURE II of APPENDIX I.

Promotion of settlement by conciliation

3.21. As soon as it may be practicable to do but not later than one week from the date of receipt of the representation, the Ombudsman shall serve a notice to the concerned officer of the Licensee named in the representation along with a copy of the representation and Endeavour to promote a settlement of the representation by mutual agreement between the Complainant and the Licensee through conciliation or mediation.

3.22. For the purpose of facilitating settlement of the representation, the Ombudsman may follow such procedures, as he may consider appropriate.

3.23. When a representation is settled through mediation of the Ombudsman, the Ombudsman shall make a recommendation which he thinks fair in the circumstances of the case. The copies of the recommendation shall be sent to the Complainant and the Licensee.

3.24. If the Complainant and the Licensee accept the recommendation of the Ombudsman, they will send a communication in writing within 15 days of the date of receipt of the recommendation. They will confirm their acceptance to the Ombudsman and state clearly that the settlement communicated is acceptable to them, in totality, in terms of the recommendations made by the Ombudsman, and are in full and final settlement of the representation.

3.25. The Ombudsman shall make a record of such an agreement as his/her orders and thereafter close the case.

Hearing of representations

3.26. After registering the representation, the Ombudsman, within seven days of registration, shall call for records relating to the representation from the concerned Forum. The concerned Forum shall send the entire records within seven days from the date of receipt of such notice, to the office of the Ombudsman.

3.27. The Ombudsman may require the Licensee or any of the officials, representatives or agents of the Licensee to furnish documents, books, information, data and details as may be required to decide the representation and the Licensee shall duly comply with such requirements of the Ombudsman.

3.28. The Ombudsman may hear the parties and may direct the parties to submit written statements of submissions in the matter.

3.29. A Complainant, Distribution Licensee or any other person who is a party to any proceedings before the Ombudsman may either appear in person or authorise any person to present his/ her case before the Ombudsman and to do all or any of the acts for the purpose.

3.30. Where the Complainant or the Licensee or their representative fails to appear before the Ombudsman on the date fixed for hearing on more than two occasions, the Ombudsman may decide the representation ex-parte.

3.31. No adjournment shall ordinarily be granted by the Ombudsman unless sufficient cause is shown and the reasons for grant of adjournment have been recorded in writing by the Ombudsman.

3.32. Where the representation is not settled by agreement within a period of 30 days from the date of receipt of the representation or such extended period the Ombudsman may deem fit duly considering the overall time limit specified, the Ombudsman may determine the manner, the place, the date and the time of the hearing of the matter as the Ombudsman considers appropriate.

ISSUE OF ORDER

3.33. The Ombudsman shall pass a written order giving reasons for all his/her findings. The order shall state the nature of the reliefs to which the Complainant is entitled as per the order. A copy of the order shall be sent to the parties and also to the concerned Forum for information.

3.34. The Ombudsman shall pass an order as early as possible, but in any case, within 60 days from the date of receipt of the representation. Where there is delay in the disposal of a representation within the said period, the Ombudsman shall record the reasons for such delay.

3.35. The order passed by the Ombudsman shall set out:

- a) Issue-wise decisions;
- b) Reasons for passing the order; and
- c) Directions, if any, to the Distribution Licensee or Complainant, or any other order, deemed appropriate in the facts and circumstances of the case.

3.36. The Licensee shall duly comply with and implement the decision of the Ombudsman on the representation filed by the Complainant within 15 days of the issue of the Order.

3.37. Non-compliance of the Ombudsman's orders shall be deemed to be a violation of these Regulations and liable for appropriate action by the Commission under section 142 of the Electricity Act, 2003.

3.38. No party can file an appeal before the Commission against the order passed by the Ombudsman. However, this is without prejudice to the rights of the complainant and the licensee to seek appropriate remedy against the order passed by the Ombudsman before appropriate bodies.

3.39. Upon request of the Complainant, the Ombudsman may issue such interim orders at any stage during the disposal of the representation as it may consider necessary.

Provided that the Ombudsman shall have the powers to pass such an interim order in any proceeding, hearing or matter before it, as it may consider appropriate if the Complainant satisfies the Ombudsman that prima facie the Distribution Licensee has threatened or is likely to remove or disconnect the electricity connection, and has or is likely to contravene any of the provisions of the Act or any rules and regulations made there under or any order of the Commission, provided that, the Ombudsman has jurisdiction on such matters.

Provided further that, except where it appears that the object of passing the interim order would be defeated by delay, no such interim order shall be passed unless the opposite party has been given an opportunity of being heard.

3.40. The Ombudsman shall be guided by the principles of natural justice, and subject to the other provisions of these regulations, the Ombudsman shall have powers to regulate its own procedure.

3.41. The Ombudsman shall inspect the office of CGRF once in a year and submit the report to the Commission within a month.

Reporting Requirements

3.42. The Ombudsman shall submit to the Commission a half-yearly report on all the representations filed before it during the period. The report should be submitted within 30 days of the close of the period to which it relates.

3.43. The report shall cover:

- a) Facts of the representation
- b) Responses of parties in brief
- c) Opinion of the Ombudsman on the compliance of standards of performance by the licensee

- d) Key directions issued to licensee and/or consumer in the order
- e) Compliance of order by licensee and/or consumer

3.44. The Ombudsman shall also furnish a yearly report containing a general review of the activities of the Ombudsman's office during the financial year to the State Commission and the State Government. The report should be submitted within 45 days of the close of the financial year to which it relates.

4. CONSUMER ADVOCACY

- 4.1. A Consumer Advocacy Cell may be constituted by the Commission to provide the required legal advice, support, and assistance to Complainants for representing their case before the Ombudsman.
- 4.2. Such a Cell shall be funded by the Commission.
- 4.3. The Cell may also perform additional functions as specified below:
 - a) Half-yearly review of grievances, representations and reports submitted by the Forum and the Ombudsman in order to advise the Commission on improvements to be made in the Regulations.
 - b) Analysis of reports submitted by the licensee with regards to levels of performance achieved on performance standards specified under Section 57 (Consumer Protection: Standards of performance of licensee) of the Act.
 - c) Facilitate capacity building of consumer groups and ensure their effective representation for enhancing the efficacy of regulatory processes.
- 4.4. The Commission shall issue guidelines to operationalise the consumer Advocacy cell.

5. MISCELLANEOUS

5.1 Submission of Report to the Commission

- (1) The Ombudsman shall submit a report to the Commission on the category-wise number of complaints received, redressed and pending for every quarter of financial year within 15 days from the end of the preceding quarter.
- (2) The Electricity Ombudsman shall send to the Commission a report on a six monthly basis giving details of grievances of the consumers dealt, the response of the licensees in the redressal of the grievances for the preceding six months. Such report shall be sent on 31st January and 31st July of every calendar year. The Electricity Ombudsman shall also send to the Commission an annual report containing general review of activities of their office(s) during the preceding calendar year.
- (3) The Commission may, if it considers necessary in the public interest so to do, publish the reports received from the Electricity Ombudsman in such consolidated form or otherwise as it deems fit.

5.2 Implementation of Orders/Awards

Any order/award passed or direction issued by Electricity Ombudsman shall be implemented or complied with by the licensee or the person required by the order or direction to do so. Non-compliance of the order of the Ombudsman shall be treated as violation of the Regulations of the Commission and accordingly liable for action u/s 142 of the Act.

5.3 Certified Copies

- (1) Every party to a proceeding in the Forum or before the Electricity Ombudsman or any interested person may obtain certified copy of any order passed by the Forum or Electricity Ombudsman.
- (2) Certified copy of the order passed by the Forum or Electricity Ombudsman shall be supplied, on demand, within 7 days.

5.4 Repeal and Savings

1. The existing BERC (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulations, 2006 are hereby repealed.
2. Notwithstanding such repeal, the redressal or settlement of pending grievances and representations, respectively, made before coming into force of the Bihar Electricity Regulatory Commission (Consumer Grievance Redressal Forum, Ombudsman and Consumer Advocacy) Regulations, 2017, shall continue to be governed by the provisions of the earlier Regulations on the subject notified on "Previous Regulations Dated", 20th May, 2006 published in Bihar Gazette on 22nd May, 2006.

5.5 Power to Amend.—The Commission may, at any time add, modify, delete or amend any provision of these Regulations subject to the provision of the Electricity Act, 2003.

5.6 Powers to remove difficulties.—If any difficulty arises in giving effect to any of the provisions of these Regulations, the Commission may make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty.

**By the order of the Commission,
PARMANAND SINGH,
Secretary..**

APPENDICES**ANNEXURE- I****GRIEVANCE SUBMISSION BEFORE FORUM****APPLICATION TO FORUM FOR REDRESSAL OF GRIEVANCE**

*Note: * indicates compulsory fields*

Date*: _____

1. Name of the Complainant : _____

2. Full address of the Complainant * : _____

Pin Code* : _____

Phone no.* : _____

Fax no. : _____

Email id : _____

3. Nature of Connection and Consumer no.* *(in case of having applied for a connection, state the application number)*: _____

4. Distribution Licensee* : _____

5. Complaint receiving centre number*: _____

6. Category of grievance *(please tick the relevant box/ boxes)*:-

a. Wrong billing _____ b. Recovery of arrears _____

c. Faulty Meter _____ d. Burnt meter _____

e. Supply interruption _____ f. Harmonics in supply _____

g. Supply voltage related _____ h. Deficient service _____

i. Delay in providing new connection _____ j. Reconnection _____

k. Change in connected load _____ l. Transfer of connection _____

m. Others *(please specify)* _____

7. Name of the employee / employees *(specify employee ID or department)*
or department against whom grievance has been filed *(if any)*: _____

8. Details of the grievance, facts giving rise to the grievance* (*If space is not sufficient please enclose separate sheet*)

9. Nature of relief sought from the Forum

10. List of documents enclosed (*Please enclose copies of any relevant documents which support the facts giving rise to the grievance*)

11. Declaration

(a) I/ We, the Complainant /s herein declare that:

- (i) the information furnished herein above is true and correct; and
- (ii) I/ We have not concealed or misrepresented any fact stated hereinabove and the documents submitted herewith.

(b) The subject matter of the present Grievance has never been submitted to the Forum by me/ or by any one of us or by any of the parties concerned with the subject matter to the best of my/ our knowledge.

(c) The subject matter of my / our Grievance has not been settled through the Forum in any previous proceedings.

(d) The subject matter of my / our Grievance has not been decided by any competent authority/court/arbitrator, and is not pending before any such authority/court/arbitrator.

Yours faithfully

(Signature)
(Complainant's name in block letters)

NOMINATION—(If the Complainant wants to nominate his representative to appear and make submissions on his behalf before the Forum, the following declaration should be submitted.)

I/We the above named consumer hereby nominate Shri/Smt. , whose address is
..... as my/our REPRESENTATIVE in the proceedings and confirm that any statement, acceptance or rejection made by him/her shall be binding on me/us. He/She has signed below in my presence.

ACCEPTED

(Signature of Representative)

(Signature of Complainant)

ANNEXURE- II

SUBMISSION OF REPRESENTATION BEFORE OMBUDSMAN

REPRESENTATION BEFORE THE OMBUDSMAN

Note: * indicates compulsory fields

Date*: _____

To

The Ombudsman

(specify full address)

Dear Sir / Madam

SUB: *(please make a mention of the order of the Forum from which a representation to the Ombudsman is being made)*

Details of the grievance are as under:

1. Name of the Complainant : _____
2. Full address of the Complainant * : _____
- Pin Code* : _____
- Phone no.* : _____
- Fax no. : _____
- Email id : _____
3. Nature of Connection and Consumer no.* *(in case of having applied for a connection, state the application number)*: _____
4. Distribution Licensee* : _____
5. Name and Address of the Forum* : _____
6. Date of submission of grievance by the Complainant to the Forum* *(please enclose 3 copies of the grievance)* : _____
7. Details of the representation, facts giving rise to the representation* *(If space is not sufficient please enclose separate sheet)*

8. Whether the consumer has received the final decision of the Forum? *(If yes, please enclose three copies of the Forum's order conveying its final decision)*

9. If the consumer has received the final decision of the Forum, whether any amount was assessed by the Forum to be paid by the consumer to the licensee? *(If yes, please enclose receipt of the deposit of 1/3rd of such amount with the Ombudsman)*

10. Nature of relief sought from the Ombudsman

11. List of documents enclosed *(Please enclose three copies of all relevant documents which support the facts giving rise to the representation)*

12. Declaration

(a) I/ We, the Complainant/s herein declare that:

(i) The information furnished herein above is true and correct; and

(ii) I/ We have not concealed or misrepresented any fact stated hereinabove and the documents submitted herewith.

(b) The subject matter of the present representation has never been brought before the Office of the Ombudsman by me/ or by any one of us or by any of the parties concerned with the subject matter to the best of my/ our knowledge.

(c) The subject matter of my/ our representation has not been settled through the Office of the Ombudsman in any previous proceedings.

(d) The subject matter of the present representation has not been decided by any competent authority/court/arbitrator, and is not pending before any such authority/ court / arbitrator.

Yours faithfully

(Signature)

(Complainant's name in block letters)

NOMINATION—(If the Complainant wants to nominate his representative to appear and make submissions on his behalf before the Ombudsman, the following declaration should be submitted.)

I/We the above named consumer hereby nominate Shri/Smt.
....., and whose address is
.....
..... as my/our REPRESENTATIVE in the proceedings and confirm
that any statement, acceptance or rejection made by him/her shall be binding
on me/us. He/She has signed below in my presence.

ACCEPTED

(Signature of Representative)

(Signature of Complainant)

Annexure-III

ANNEXURE III: QUARTERLY REPORTING BY FORUM/OMBUDSMAN

Quarter: _____ Financial Year: _____

1. Status of Grievance Redressal

Sl. No	Parameters	Delay in restoring supply	Quality of supply	Meter problems	Billing problems	Quality of service	Others	Total
1	Grievances pending at end of previous quarter							
2	Grievances received during this quarter							
3	Total grievances (1+2)							
4	Grievances attended during this quarter							
5	Balance grievances to be attended (3-4)							
6	Grievances successfully redressed during this quarter							
7	Grievances in the process of redressal							
8	Grievances escalated to Ombudsman							

Note: Sum of rows 6, 7 & 8 should be equal to row 4

2. Status of compliance by licensee

a. Of the number of grievances successfully redressed during the quarter, state the number of grievances in which the order specified directions for the licensee: _____

b. Describe the status of the licensee's compliance against each such grievance:

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